

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1920 OF 2017

ORDER:

This Civil Revision Petition is filed under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, 'the Act') challenging the order dated 28.03.2017 in I.A.No.80 of 2017 in R.C.No.213 of 2013 on the file of the IV Additional Rent Controller, City Small Causes Court, Hyderabad.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the respondents herein have filed R.C.No.213 of 2013 on the file of the IV Additional Rent Controller, City Small Causes Court, Hyderabad, for eviction of the petitioner/tenant on two grounds: (1) the petitioner committed willful default in payment of rent, and (2) the respondents required the petition schedule property for personal occupation. It further reveals that the petitioner filed O.S.No.2036 of 2011 on the file of the VIII Junior Civil Judge, City Civil Court, Hyderabad, against the respondents for perpetual injunction and the same was allowed directing the respondents to follow the due procedure. The petitioner also filed R.C.No.63 of 2012 on the file of the IV Additional Rent Controller, Hyderabad, against the respondents, under Section 8(5) of the Act seeking permission to deposit the rent. After affording a reasonable opportunity to both parties, the learned Rent Controller allowed the said R.C. permitting the petitioner to deposit the rent at the rate of Rs.1,400/- per month. Feeling aggrieved by the order in R.C.No.63 of 2012, the petitioner filed R.A.No.91 of 2016 and the same is pending.

4. A perusal of the record reveals that the petitioner herein in O.S.No.2036 of 2011 categorically admitted that there are two mulgies in the petition schedule premises, i.e., one is of wooden door and another is of shutter. Learned counsel for the respondents also submitted that there are two mulgies in the petition schedule premises.

5. Normally the Court can appoint an advocate commissioner if there is any dispute with regard to the identity of the petition schedule property. In the instant case, both the parties are admitting that there are two mulgies in the petition schedule premises. Absolutely, there is no dispute between the parties with regard to the number of mulgies. The trial Court rightly considered these aspects and dismissed the petition.

6. At the time of arguments, the learned counsel for the petitioner submitted that the petitioner filed I.A.No.80 of 2017 in R.C.No.213 of 2013 under Section 31 of the Act for appointment of an advocate commissioner to note down the physical features of the petition schedule property. Section 31 of the Act reads as follows:

“31. Power to enter and inspect premises:- The Controller or any person authorised in writing by him in this behalf, by general or special order, may enter and inspect any building for the purpose of any inquiry or for any other purpose connected with this Act or the rules made thereunder.”

A perusal of Section 31 of the Act clearly demonstrates that the Controller or any other person authorized by him can visit the

building for the purpose of enquiry. Section 31 of the Act does not deal with appointment of an advocate commissioner. Hence, the petition is not maintainable under Section 31 of the Act also.

7. As observed earlier, there is no dispute with regard to the identity of the petition schedule property or number of mulgies. In such circumstances, appointment of the advocate commissioner is no way helpful to the Court. So far as the quantum of rent is concerned, the Rent Control Court may decide the same basing on the material available on record. There is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court. Hence, the revision lacks merits and *bona fides*.

8. Accordingly, the Civil Revision Petition is dismissed at the admission stage. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 19.04.2017
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